

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FRANKLIN ARMORY HOLDINGS, INC., a
Nevada Corporation; and FRANKLIN
ARMORY, INC., a Nevada Corporation,

Plaintiffs,

v.

ROBERT JOSEPH GALLAGHER, an
individual; and IN THE FIELD DEFENSE, a
sole proprietorship,

Defendants.

CIVIL ACTION NO. 2:20-CV-5681

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR LEAVE TO FILE A
SUR-REPLY IN OPPOSITION TO THE MOTION OF RICHARD P. GILLY, ESQ.,
TREVOR J. COONEY, JR., ESQ., AND KATE A. SHERLOCK, ESQ. TO WITHDRAW
AS COUNSEL OF RECORD FOR DEFENDANTS**

Pursuant to Paragraph II.C.3. of Your Honor's Policies and Procedures for Counsel, Plaintiffs Franklin Armory Holdings, Inc. and Franklin Armory, Inc. (collectively, "Plaintiffs") respectfully submit the following Memorandum in Support of their Motion for Leave to File a short Sur-Reply addressing inaccuracies in Defendants Robert Joseph Gallagher and In The Field Defense's (collectively, "Defendants") reply brief, which was submitted per the Court's August 25, 2021 Order. Dkt. No. 44.

On September 2, 2021, Defendants filed a reply brief alleging that Plaintiffs asserted "*ad hominem* attack[s]" against Defense counsel, and more pertinently, misrepresented that Defendant In The Field Defense is not a limited liability company. With Your Honor's permission, Plaintiffs respectfully request permission to file the sur-reply attached hereto as Exhibit A within the next five (5) business days to correct the record. Specifically, Plaintiffs intend to show that In The Field Defense, a former sole proprietorship, is now known as In The

Field Defense, LLC. This corporate formality change occurred shortly after the filing this lawsuit and the limited liability company is a party to this litigation. Indeed, until now, Defendants have never disputed that the limited liability company is a party to the litigation—to the contrary they have expressed through correspondence and joint stipulations that the limited liability company is a party. Accordingly, in fairness, the Court should consider the Plaintiffs’ sur-reply. Plaintiffs do not re-urge or regurgitate arguments made in their Opposition and only request the opportunity to correct prejudicial and blatantly false representations.

WHEREFORE, Plaintiffs respectfully request that the Court grant their Motion for Leave, allowing Plaintiffs to file the sur-reply attached as Exhibit A within five (5) business days of the Court granting the subject Motion.

Dated: September 7, 2021

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By: /s/ Mark W. Halderman

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CERTIFICATE OF SERVICE

I, Mark W. Halderman, hereby certify that on September 7, 2021, I caused a true and correct copies of the foregoing to be sent electronically to all counsel of record via the ECF system, and that the document is available for viewing and downloading from the ECF system.

/s/ Mark W. Halderman

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